

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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BILL SCHUETTE
ATTORNEY GENERAL

November 6, 2015

Velveta Golightly-Howell
Director
Office of Civil Rights
United States Environmental
Protection Agency
Washington, D.C. 20460

RETURN RECEIPT REQUESTED
Certified Mail #: 7011 1570 0002 5222 0832
Also sent via email to:
golightly-howell.velveta@epa.gov

**RE: 40 C.F.R. Part 7 Compliance and
Genesee Power Station, EPA File No.: 01R-94-R5**

Dear Director Golightly-Howell:

This letter and enclosed materials are submitted on behalf of the Michigan Department of Environmental Quality (MDEQ), in response to your letter dated September 2, 2015. I apologize that this response is being sent after the October 21, 2015 response date referenced in your September 2 letter.

The MDEQ has determined that agency compliance with 40 C.F.R. Part 7 is sufficiently separate and distinct from the facts and merits of the 1994 Genesee Power Station Title VI complaint and that the two matters should be resolved separately.

With respect to compliance with 40 C.F.R. Part 7, enclosed is MDEQ's policy and procedure No. 09-024 implementing the requirements under 40 C.F.R. Part 7, Subpart D.

With respect to the 1994 Genesee Power Station Title VI complaint (in particular the public participation claim) and in response to your request for noteworthy program changes and improvements benefitting communities (including the documents and specific information listed in Alan Walts April 10, 2015, email), enclosed are two documents:

(1) MDEQ Non-Discrimination Timeline:

This document is an historical overview from 1965 to date of events associated with the 1994 Genesee Power Station Title VI complaint and noteworthy MDEQ program changes and improvements benefitting communities.

(2) MDEQ, Air Quality Division, Response to April 10 and September 2, 2015, Requests for Information on Air Quality Division Public Involvement/ Participation Procedures for Air Pollution Control Permits:

This document contains more detail of the public participation activities for the Genesee Power Station permitting action followed by the specific information you and Alan Walts have requested, organized into the following topics that track with those requests:

- The Public Involvement and Hearing Processes for the Genesee Power Station;
- The MDEQ's current structure and organizational process for handling public involvement;
- How to conduct air permit hearings, including when and how to limit the time allotted for oral comments, when to close oral comment; and when and how to provide alternate opportunities for those with schedule conflicts to provide oral comments;
- When to extend the public comment period;
- How to determine the time and location for hearings;
- Whether and when an agenda for a hearing can include more than one permit hearing;
- When and what security measures are appropriate for hearings and how they are arranged;
- What may and may not be considered in the decision to grant an air permit;
- How oversight and quality control functions for public involvement/ participation of individual permit activities are performed;
- Any accountability measures or safeguards that have been implemented to ensure hearings and other public involvement processes are properly carried out; and
- Any conflict of interest or ethical standards that apply to MDEQ employees involved in the permitting process.

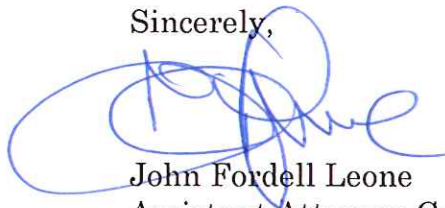
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When reviewing the merits of taking action on the 1994 Genesee Power Station Title VI complaint, please also consider: (1) the 1995 federal court order dismissing with prejudice such Title VI claims under 40 C.F.R. § 7.35, and (2) the 1996 Michigan Court of Appeals opinion affirming the trial court's summary disposition of civil rights and equal protection claims based on the same facts as the present matter. Copies of both court rulings are enclosed.

Sincerely,



John Fordell Leone
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
(517) 335-0694

JFL:jl

Enclosures

cc: Robert Kaplan (via email to: kaplan.robert@epa.gov)
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